

1 **4.20.800 Policy – purpose**

2 It is the purpose of this ordinance to:

- 3 A. Encourage City employees to report in good faith assertions of improper
governmental action and to provide employees with a clear process for making reports;
4 B. Provide City employees protection from retaliatory action for making a good faith
report or being perceived as making a report, or cooperating or being perceived as cooperating in
5 any subsequent inquiry or investigation;
6 C. Provide for an independent investigation of reports to inform the operation of City
government and promote the public confidence;
7 D. Provide for an independent investigation and determination of alleged retaliation;
8 E. Provide an administrative forum in which to address the harm caused by
retaliatory behavior;
9 F. Provide for the assessment of penalties against individuals who retaliate against a
City employee;
10 G. Adopt a whistleblower program to comply with RCW 42.41, Local Government
Whistleblower Protection; and
11 H. In adopting this subchapter do nothing to diminish employee rights under any
collective bargaining agreement.

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13 **4.20.805 Definitions**

14 “Adverse change” includes, but is not limited to: denial of adequate staff to perform
15 duties; frequent staff changes; frequent and undesirable office changes or changes in the physical
location of the employee’s workplace or a change in the basic nature of the employee’s job, if
16 either is in opposition to the employee’s expressed wish; refusal to assign meaningful work;
unsubstantiated letters of reprimand or unsatisfactory performance evaluations; reduction in pay;
17 denial of promotion; transfer or reassignment; demotion, suspension or dismissal or other
disciplinary action; a supervisor or superior who behaves in, or encourages coworkers to behave
18 in, a hostile manner toward the employee; issuance of or attempt to enforce any nondisclosure
policy or agreement in a manner inconsistent with prior practice; or any other significant
19 unfavorable action that is inconsistent compared to actions taken before the employee engaged in
action protected by this chapter, or compared to other employees who have not engaged in action
20 protected by this chapter.

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22 “City agency” means any department, office, board, commission, or committee of the
City, or any subdivision thereof, but excludes public corporations and ad hoc advisory
23 committees.

24 “City employee” or “Employee” means every individual who is, or was at the time
25 actions under this chapter were taken, appointed to a position of employment in any City agency,
whether in a permanent, temporary or intermittent position.
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27 “City officer” means every individual elected or appointed to an office in any City
agency, whether such individual is paid or unpaid.
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2 **“Commission”** means the Seattle Ethics and Elections Commission.

3 **“Cooperating employee”** means a City employee who:

4 A. In good faith makes a report of alleged improper governmental action
pursuant to subsection 4.20.810.C;

5 B. Is perceived by the City as having reported pursuant to this chapter, but
who in fact, did not report;

6 C. In good faith provides information in connection with an inquiry or
investigation of a report or testifies in any proceeding resulting from a report; or

7 D. Is perceived by the employer as providing information in connection with
an inquiry or investigation of a report made pursuant to this chapter, but who in fact has not done
8 so.

9 **“Executive Director”** means the Executive Director of the Seattle Ethics and Elections
10 Commission.

11 **“Good faith”** means the individual reporting or providing information has a reasonable
12 basis in fact for reporting or providing the information.

13 **“Gross waste of public funds or resources”** means to spend or use funds or resources, or
14 to allow the use of any funds or resources, in a manner grossly deviating from the standard of
care or competence that a reasonable person would observe in the same situation. The term
15 “gross waste of public funds or resources” also includes the non-collection of a debt or other
obligation owed the City when the non-collection is done in a manner grossly deviating from the
16 standard of care or competence that a reasonable person would observe in the same situation.

17 **“Improper governmental action”**

18 A. Improper governmental action means any action by an employee that is
undertaken in the performance of the employee's official duties, whether or not the action is
19 within the scope of employment, that:

20 1. Violates any federal, state, county or City statute, ordinance or rule;
21 2. Creates a substantial or specific risk of serious injury, illness, peril, or loss,
that is a gross deviation from the standard of care or competence that a reasonable person would
observe in the same situation;

22 3. Results in a gross waste of public funds or resources; or

23 4. Prevents the dissemination of scientific opinion or alters technical findings
without scientifically valid justification, unless disclosure is legally prohibited. This provision is
24 not meant to preclude the discretion of agency management to adopt a particular scientific
opinion or technical finding from among differing opinions or technical findings to the exclusion
25 of other scientific opinion or technical findings.

26 B. Improper governmental action excludes:

27 1. Personnel actions, including but not limited to: employee grievances,
complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements,
restorations, reemployments, performance evaluations, reductions in pay, dismissals,
28 suspensions, demotions, reprimands, violations of collective bargaining or civil service laws, or

1 alleged violations of agreements with labor organizations under collective bargaining, or any
2 action that may be taken under RCW Chapters 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 or
3 RCW 54.04.170 and 54.04.180.

4 2. A properly authorized City policy, reasonable expenditure or activity
5 merely because an employee dissents from the City policy or considers the expenditure unwise.

6 **“Interested Parties”** means the Cooperating Employee who alleges retaliatory action, the
7 relevant agency, the Executive Director, and the individual employee the Executive Director
8 alleges to have retaliated.

9 **“Report”** means:

10 A. Reporting any assertion of improper government action to the Executive
11 Director including reporting violations of the Ethics and Elections Codes;

12 B. Reporting any assertion of improper government action to an employee’s
13 supervisor, manager, officer or appointing authority or director;

14 C. Reporting any assertion of sexual harassment to the employee's
15 supervisor, Equal Employment Officer, agency head, or other government official as set out in
16 the City's procedure for reporting sexual harassment complaints;

17 D. Reporting alleged violations of the Fair Employment Practices ordinance
18 or the Health Insurance Portability and Accountability Act (HIPAA) to the Office for Civil
19 Rights;

20 E. Reporting alleged misconduct by Seattle Police Department personnel to
21 the Seattle Police Office of Professional Accountability;

22 F. Reporting alleged violations of the Code of Judicial Conduct to the
23 Washington State Commission on Judicial Conduct;

24 G. Reporting alleged violations of criminal laws to any law enforcement
25 agency;

26 H. Reporting when the employee believes in good faith that a crime is about
27 to be committed, to any law enforcement agency, agency head, manager or supervisor;

28 I. Reporting if an employee is, in good faith, seeking advice, counsel or
opinion on their rights and responsibilities under this subchapter to determine whether to make a
report under this chapter;

J. Reporting outside of City government if 30 days have passed since the
employee made a written report pursuant to this chapter; or

K. Reporting in an emergency, to any person who has the ability to address
the danger or risk, where the employee believes in good faith that there is a substantial and
specific danger or risk of serious injury, illness, peril, or loss to any person. No emergency
under this subsection exists where prompt attention and reporting under this subchapter by the
employee could have avoided the perceived need to report immediately.

“Retaliate,” and its kindred nouns, "retaliation" and "retaliatory action," means to make,
or use one’s authority to make, an adverse change in a Cooperating Employee's employment
status or terms and conditions of employment where the employee’s status as a Cooperating
Employee was a contributing factor in the decision making process except as provided for in
Section 4.20.870B.

4.20.810 Employee rights, responsibilities and limitations

A. Rights

1. Every employee shall have the right to report in good faith pursuant to this subchapter an assertion of improper governmental action and shall be free from retaliation.

2. The identity of a cooperating employee shall be kept confidential and shall not be disclosed unless such disclosure is required under applicable law or the employee in writing waives confidentiality.

B. Responsibilities

1. An employee may not disclose information when disclosure is prohibited under the law (e.g., RCW 5.60.060 privileged communications).

2. An employee who reports his or her own improper governmental action will not be free from discipline or termination under Section 4.04.230 or 4.08.100 if his or her improper action would be cause for discipline or termination.

C. Prohibitions

No City agency, officer or employee shall retaliate against any cooperating employee.

4.20.830 Reports to the Executive Director

The following applies to any report of improper governmental action made to the Executive Director.

A. Reports. A report of improper governmental action should be made within 12 months of when a reasonable person similarly situated to the reporting employee would have become aware of the occurrence. The Executive Director may initiate an inquiry of an occurrence falling outside of this time limitation if he or she believes that doing so is in the public interest.

B. Inquiry. Within 14 days after receiving an assertion of alleged improper governmental action, the Executive Director shall conduct a confidential preliminary inquiry to determine if the facts as asserted would constitute improper governmental action. The Executive Director shall communicate the results to the reporting individual along with the actions, if any, that will be taken. If, after a preliminary inquiry, the Executive Director determines that the facts as asserted would constitute improper governmental action, the Executive Director shall make a mandatory or discretionary referral, or may open an investigation.

C. Mandatory and discretionary referral

1. Mandatory referral. The Executive Director shall refer an employee making the following allegations as follows:

a. Sexual harassment to any management representative, the Seattle Office for Civil Rights, Equal Employment Opportunity Commission, the Washington Human Rights Commission, or other governmental official as set out in the City's adopted procedure for reporting sexual harassment complaints;

b. Violations of the Fair Employment Practices ordinance to the Office for Civil Rights;

c. Allegations regarding misconduct by Seattle Police Department personnel to the Seattle Police Office of Professional Accountability; or

d. Allegations of violations of the Code of Judicial Conduct to the Washington State Commission on Judicial Conduct.

2. Discretionary referral. The Executive Director may refer a report to the chief elected official of the branch of government named in the allegation or to other governmental agencies the Executive Director believes better suited to investigate the allegation.

a. When the Executive Director makes a discretionary referral pursuant to this chapter, the cooperating employee shall be notified before the referral is made.

b. Within 60 days of a discretionary referral being made by the Executive Director, the City official or agency head receiving the referral shall personally or through their designated representative, respond to the Executive Director with the agency's plan to investigate and/or resolve the concern. If the Executive Director does not receive an agency's plan or, if within a reasonable time the agency does not complete the plan, the Executive Director may alert the Mayor and the City Council.

D. Investigation

1. The Executive Director shall investigate alleged violations of the Elections Code according to Section 2.04.070 and the Ethics and Election Commission's Administrative Rules; alleged violations of the Ethics Code according to Section 4.16.090 and the Ethics and Election Commission's Administrative Rules; and, alleged violations of the Lobbying Code according to Chapter 2.06 and the Ethics and Election Commission's Administrative Rules.

2. Investigations of improper governmental action that do not assert violations of the Ethics, Election or Lobbying Code shall be completed within a period of six months. If an investigation cannot be completed within that time the Executive Director must inform the employee who reported the concern as to the reason why and estimate the completion date of the investigation.

3. Completion and Reports. Upon completion of the investigation, the Executive Director shall issue a report summarizing the facts and determining whether there is reasonable cause to believe that improper governmental action occurred.

4. If the Executive Director determines there is reasonable cause to believe an improper governmental action has occurred, the Executive Director shall report the nature and details of the activity to the reporting employee; the head of the agency with responsibility for the action; and, if an agency head is implicated, to the Mayor and City Council, and such other governmental officials or agencies as the Executive Director deems appropriate.

E. Response by the City agency. The head of the agency in which the conduct took place, or their designated representative, shall report to the Executive Director within 60 days what action was taken to address the conduct. The Executive Director shall report the resolution to the reporting employee. If the Executive Director determines that satisfactory action to follow up the report is not being taken, the Executive Director shall report his or her determination to the Mayor and the City Council.

F. Closure. The Executive Director may close an inquiry or investigation at any time he or she determines that no further action is warranted and shall so notify the reporting employee.

G. Decisions of the Executive Director under this section are not appealable to the Ethics and Elections Commission.

4.20.860 Retaliation

A. Complaint- alleging retaliation

1. Timeliness. In order to seek relief, an employee who believes he or she has been the subject of retaliation must file a signed written complaint within 180 days of when they reasonably should have known that an occurrence alleged to constitute retaliation occurred.

2. Place of filing. The complaint shall be filed with the Executive Director.

3. Contents of the complaint. The complaint alleging retaliation must state:

a. The adverse change or changes alleged to be retaliation and the date or dates it occurred;

b. The person or persons responsible for the adverse change or changes;

c. The conduct undertaken or the conduct perceived to have been undertaken by the employee that establishes the employee as a cooperating employee;

d. The relief the employee is requesting;

e. If the protected conduct is based on an employee's report to a person other than the Executive Director, some independent evidence that a report was made on a specific date and some evidence of its content; and

f. Whether the complainant has filed an action in any other forum based upon the same conduct.

B. Initial determination

1. The Executive Director shall make an initial determination as to the sufficiency of the complaint within 14 days.

2. If the Executive Director finds the complaint to be insufficient, he or she shall dismiss the complaint and give notice to the employee. The employee may re-submit the complaint within the 180-day filing period. The time in which the Executive Director is considering the sufficiency of the complaint is not included in the 180 day time frame.

3. The Executive Director shall find the complaint sufficient if the complaint asserts facts that, if true, would show:

a. the employee is a cooperating employee;

b. the employee was subjected to an adverse change or changes that occurred within the prescribed time period; and

c. the employee's protected conduct reasonably appears to have been a contributing factor.

4. The Executive Director shall not dismiss a complaint as insufficient because it fails to include all required information so long as it substantially satisfies the informational requirements.

C. Investigation of sufficient complaints

1. The Executive Director may choose not to investigate a complaint if the matter is being pursued in another forum.

2. If the matter is not before another forum or if the Executive Director decides to pursue a matter even though it is before another forum, the Executive Director shall investigate sufficient complaints and endeavor to complete the investigation in 90 days. If the investigation is not completed within 90 days, the Executive Director shall inform the interested parties of the date the investigation is expected to be completed.

3. All investigations shall be conducted in an objective and impartial manner.

4. The Executive Director shall at the conclusion of the investigation determine whether there is reasonable cause to believe that retaliation occurred.

D. No reasonable cause found

If the Executive Director finds no reasonable cause to believe that retaliation occurred, the Executive Director shall dismiss the complaint and inform the employee.

E. Reasonable cause found

1. If the Executive Director finds reasonable cause to believe that retaliation occurred, the Executive Director shall issue a written report to the interested parties that shall include a statement of the facts which provide the basis for the finding. The report may also include the identity of the individual employee or employees responsible for the retaliation and recommendations for agency action.

2. The Executive Director may submit a draft including findings and recommendations to the interested parties for review and comment before issuing the final investigative report and determination.

F. Settlement

Within 30 days of the Executive Director's final report finding reasonable cause, and before the filing of a complaint with the Hearing Examiner pursuant to subsection 4.20.865.B, the Director shall determine whether it is feasible to conduct a joint settlement conference with the interested parties to attempt to agree on an appropriate remedy.

1. Interested parties may be represented at a settlement conference by a person of their own choosing.

2. The Executive Director may use the services of the City of Seattle's Alternative Dispute Resolution office or the King County Inter-local Conflict Resolution Group or similar service to aid in determining an appropriate remedy.

3. A settlement may include any terms agreed upon by the parties and not otherwise precluded by law, including the cooperating employee's reasonable attorney fees attributed directly to attendance at the settlement discussion.

4. Any settlement between a City agency and the cooperating employee must include a provision in which the employee releases the City from further liability for acts giving rise to the retaliation complaint.

5. Settlement agreements concerning charges or potential charges of violations of subsection 4.16.070.F are subject to Commission approval.

G. End of settlement discussions

If the Executive Director determines that initiating a joint settlement conference is not feasible or determines that, at any point after such a conference is initiated, it is no longer feasible to reach a joint settlement, the Executive Director shall issue a notice to all interested parties that a settlement is not feasible.

4.20.865 Enforcement

A. Election of administrative forum

1. Nothing in this subchapter prohibits an employee from filing in any administrative forum or affects the remedies available in that forum.

2. If after filing a complaint with the Executive Director, the complainant files an action in another forum based upon the same conduct, the complainant shall inform the Executive Director within 15 days.

3. After discovering or being informed of an action in another forum based upon the same conduct the Executive Director may choose to continue with the proceedings or suspend proceedings until either the other action is completed or the Executive Director determines that another course of action is appropriate.

B. Filing a complaint with the Hearing Examiner

1. The Executive Director may file a complaint alleging retaliation with the Hearing Examiner. The complaint shall:

a. name the interested parties;
b. provide a concise statement of the conduct constituting retaliation;
and

c. contain a request for relief.

2. All cases are governed by the Hearing Examiner Rules of Practice and Procedure. The Hearing Examiner may promulgate such additional administrative rules as needed.

3. If the Cooperating Employee is a party to the enforcement action, the employee may choose to be represented by a person of their own choosing.

C. Proof

1. The burden of proof in any proceeding against an individual employee or employees for retaliating against a Cooperating Employee in violation of subsection 4.16.070.F is with the Executive Director. Retaliation must be shown by a preponderance of the evidence.

2. The burden of proof in any proceeding before the hearing examiner against an agency is on the agency to prove that no retaliation occurred by showing by a preponderance of the evidence that the cooperating employee's status as a cooperating employee was not a contributing factor in the agency's decision to implement the adverse action against the cooperating employee.

3. All interested parties may present evidence at the discretion of the Hearing Examiner. The burden is on the cooperating employee to present any evidence of emotional distress.

D. Findings of the Hearing Examiner

After hearing the evidence, the Hearing Examiner shall issue written findings of fact and conclusions of law as to whether this sub-chapter was violated.

1. If the Hearing Examiner concludes that an agency retaliated against a cooperating employee in violation of this subchapter:

a. The Hearing Examiner may order actual damages and such other relief deemed necessary to effectuate the purpose of this chapter and to secure future compliance, including such relief and action that could be ordered by a court.

b. If the cooperating employee proves emotional distress damages, the Hearing Examiner may award the cooperating employee damages. Any award for emotional distress shall not exceed \$20,000.

c. The Hearing Examiner may award reasonable attorney fees. Any award for attorneys' fees shall not exceed \$20,000.00.

d. The agency shall comply with the provisions of any order granting relief and shall furnish proof of compliance to the Executive Director. In the event that the agency refuses or fails to comply with the order, or does not seek timely judicial review, the

Executive Director shall notify the Mayor, the Council and the City Attorney. The Director may request that the City Attorney seek enforcement of the order in an appropriate court.

2. If the Hearing Examiner finds that one or more employees retaliated against a cooperating employee in violation of subsection 4.16.070.F and this subchapter:

a. The Hearing Examiner shall deliver the findings of fact and conclusions of law to the Commission, and may include a recommendation to the Commission as to an appropriate sanction under Section 4.16.100. Only the Commission has the authority to impose a penalty against an individual employee.

b. The Hearing Examiner may recommend to the agency that disciplinary action be commenced against an individual employee or employees found to have retaliated.

3. Commission action. The Commission shall accept the Hearing Examiner's Findings of Fact as dispositive. The Commission may impose sanctions as provided by Section 4.16.100 on the employee found to have violated subsection 4.16.070.F.

4. The final order of the Hearing Examiner or the Commission shall include a notice to the parties of the right to obtain judicial review of the order in accordance with applicable law.

4.20.870 Private cause of action

A. The cooperating employee may, after filing a timely and sufficient complaint with the Executive Director, pursue a private cause of action under this subchapter if one of the following conditions applies:

1. The Executive Director has determined not to investigate because the matter is being pursued in another forum; or

2. the Executive Director has completed an investigation and determined that no reasonable cause exists to believe that retaliation occurred; or the Executive Director has found that the complaint has reasonable cause, the Executive Director has determined that a joint settlement is not feasible, and the cause of actions is filed within 12 months of the Executive Director providing notice to the parties under subsection 4.20.860.G that he or she has determined a Settlement is not feasible. In no event can a cooperating employee file a private cause of action if 30 days have passed since the Executive Director has filed a complaint with the Hearing Examiner and named the cooperating employee as an interested party.

B. When adhering to the filing requirements of subsection 4.20.870A, the Cooperating Employee injured by any violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person, or both. Remedies for damages include the cost of suit including reasonable attorneys' fees, without limitation; emotional distress damages not to exceed \$20,000; and any other appropriate remedy authorized by this chapter, without limitation. The cooperating employee has the burden to prove by a preponderance of the evidence that a violation occurred. To prove retaliation in such a lawsuit, a Cooperating Employee must prove by a preponderance of the evidence that the protected activity was a substantial factor in the decision making process that resulted in an adverse action against the Cooperating Employee.

C. If the employee files a civil action, the Executive Director shall dismiss any administrative action for relief for that employee in which the charged party is an agency, but

may still pursue administrative action against any employee alleged to have violated subsection 4.16.070.F.

4.20.875 Investigative powers

At any stage in an inquiry or investigation of an alleged improper governmental action, or the investigation regarding an assertion of retaliation for engaging in conduct protected in this subchapter, the Executive Director may issue subpoenas, administer oaths, examine witnesses, submit written questions to be answered under oath and, compel the production of documents or other evidence. If the subpoenaed party or agency does not respond to the request in a timely manner, the Executive Director may ask for the assistance of the City Attorney to pursue enforcement through order in superior court.

4.20.880 Annual restatement and training

The Seattle Ethics and Election Commission and City Personnel shall, within six months of the effective date of this ordinance, develop and present a plan for adoption by City Personnel and the Seattle Ethics and Elections Commission that reaches the following goals ensuring:

A. City employees attend a Whistleblower Protection Code training offered by the Seattle Ethics and Elections Commission within six months of entering City service;

B. All City employees who are acting in a management or supervisory capacity at the time this ordinance becomes effective will, within one year of the effective date attend a Whistleblower Protection Code training offered by the Seattle Ethics and Elections Commission;

C. Every City employee who acts within a supervisory capacity will, within six months of undertaken supervisory responsibilities, attend a Whistleblower Protection Code training offered by the Seattle Ethics and Elections Commission; and

D. On annual basis each City employee receives a written summary of this chapter as prepared by the Ethics and Elections Commission.

NEW - CHANGES TO THE SEATTLE ETHICS CODE – SMC 4.16.070

4.16.070 Prohibited conduct.

A covered individual may not:

A. Disqualification from acting on City business.

1. Participate in a matter in which any of the following has a financial interest, except as permitted by Section 4.16.071

- a. the covered individual;
- b. an immediate family member of the covered individual;
- c. an individual residing with the covered individual;
- d. a person the covered individual serves as an officer, director, trustee, partner or employee;
- e. a person with which the covered individual is seeking or has an arrangement concerning future employment.

2. Participate in a matter in which a person that employed the covered individual in the preceding 12 months, or retained the covered individual or his or her firm or partnership in the preceding 12 months, has a financial interest; provided, however, that the Executive Director shall waive this section when:

a. the covered individuals appointing authority or the authority's designee makes a written determination that there is a compelling City need for the covered individual to participate in a matter involving a prior employer or client, and submits that determination with a written plan showing how the authority will safeguard the City's interests, and

b. the Executive Director determines that the authority's plan is satisfactory.

3. Perform any official duties when it could appear to a reasonable person, having knowledge of the relevant circumstances, that the covered individual's judgment is impaired because of either (1) a personal or business relationship not covered under subsection 1 or 2 above, or (2) a transaction or activity engaged in by the covered individual. It is an affirmative defense to a violation of this subsection 3 if the covered individual, before performing the official act, discloses the relationship, transaction or activity in writing to the Executive Director and the covered individuals appointing authority, and the appointing authority or the authority's designee either approves or does not within one week of the disclosure disqualify the covered individual from acting. For an elected official to receive the same protection, the official must file a disclosure with the Executive Director and the City Clerk. If a covered individual is charged with a violation of this subsection, and asserts as an affirmative defense that a disclosure was made, the burden of proof is on the covered individual to show that a proper disclosure was made and that the covered individual was not notified that he or she was disqualified from acting.

4. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply if the prohibited financial interest is shared with a substantial segment of the City's population.

B. Improper use of official position.

1 1. Use or attempt to use his or her official position for a purpose that is, or
2 would to a reasonable person appear to be, primarily for the private benefit of the covered
3 individual or any other person, rather than primarily for the benefit of the City, except as
4 permitted by Section 4.16.071;

5 2. Use or attempt to use, or permit the use of any City funds, property, or
6 personnel, for a purpose which is, or to a reasonable person would appear to be, for other than a
7 City purpose, except as permitted by Section 4.16.071; provided, that nothing shall prevent the
8 private use of City property which is available on equal terms to the public generally (such as the
9 use of library books or tennis courts), the use of City property in accordance with municipal
10 policy for the conduct of official City business (such as the use of a City automobile), if in fact
11 the property is used appropriately; or the use of City property for participation of the City or its
12 officials in activities of associations that include other governments or governmental officials;

13 3. Except in the course of official duties, assist any person in any matter
14 involving the covered individuals department; provided, further, that except in the course of
15 official duties, a covered individual in the Mayor's office or the legislative department may not
16 assist any person in any matter. This subsection c does not apply to any covered individual
17 appearing on his or her own behalf on any matter, or on behalf of any business entity solely
18 owned by the covered individual, if not otherwise prohibited by ordinance;

19 4. Influence or attempt to influence a City decision to contract with, or the
20 conduct of City business with, a person in which any of the following has a financial interest:

- 21 a. the covered individual;
- 22 b. an immediate family member of the covered individual;
- 23 c. an individual residing with the covered individual;
- 24 d. a person the covered individual serves as an officer, director,
25 trustee, partner or employee;
- 26 e. a person with which the covered individual is seeking or has an
27 arrangement concerning future employment,

28 However, it is not a violation of this section for a City contractor to attempt to obtain
other contracts with the City.

C. Acceptance of things of value.

1 1. Solicit or receive any retainer, gift, loan, entertainment, favor, or other
2 thing of monetary value from any person or entity where the retainer, gift, loan, entertainment,
3 favor, or other thing of monetary value has been solicited, or received or given or, to a
4 reasonable person, would appear to have been solicited, received or given with intent to give or
5 obtain special consideration or influence as to any action by the covered individual in his or her
6 official capacity; provided, that nothing shall prohibit campaign contributions which are solicited
7 or received and reported in accordance with applicable law.

D. Disclosure of confidential information

1 1. Disclose or use any confidential information gained by reason of his or her
2 official position for other than a City purpose.

E. Interest in City ((€))contracts

1 1. Hold or acquire a financial or beneficial interest, direct or indirect,
2 personally or through a member of his or her immediate family, in any contract which, in whole
3 or in part, is made by, through, or under the supervision of the covered individual, or which is
4 made by or through a person supervised, directly or indirectly, by the covered individual, except
5 as permitted by Section 4.16.071; or accept, directly or indirectly, any compensation, gratuity, or
6 reward in connection with such contract from any other person or entity beneficially interested in

1 the contract. This subsection does not apply to the furnishing of electrical, water, other utility
2 services or other services by the City at the same rates and on the same terms as are available to
3 the public generally.

4 2. Unless prohibited by subsection 1, have a financial interest, direct or
5 indirect, personally or through a member of his or her immediate family, in any contract to which
6 the City or any City agency may be a party, and fail to disclose such interest to the City
7 contracting authority before the formation of the contract or the time the City or City agency
8 enters into the contract; provided, that this subsection 2 does not apply to any contract awarded
9 through the public bid process in accordance with applicable law.

10 F. Retaliate against a City Employee as prohibited under Section 4.20.810 of the
11 Whistleblower Protection Code; or directly or indirectly threaten or intimidate a City employee
12 for the purposes of interfering with that employee's right to communicate with the Commission,
13 its employees, or its agents; or directly or indirectly threaten or intimidate an employee for the
14 purposes of interfering with or influencing an employee's cooperation in an inquiry or
15 investigation, or interfering or influencing testimony in any investigation or proceeding arising
16 from a report; or knowingly take or direct others to take any action for the purpose of:

17 1. influencing an employee's cooperation in an inquiry or investigation based
18 on a report of improper governmental action; or

19 2. interfering or influencing testimony in any investigation or proceeding
20 arising from a report.

21 G. Application to Certain Members of Advisory Committees

22 1. Subsections 4.16.070.A.1 and 4.16.070.A.2 apply to employee members
23 of advisory committees. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply to other
24 members of advisory committees. This subsection G instead applies to all other members of
25 advisory committees. No member of an advisory committee to whom this subsection applies
26 shall:

27 a. Have a financial interest, direct or indirect, personally or through a
28 member of his or her immediate family, in any matter upon which the member would otherwise
act or participate in the discharge of his or her official duties, and fail to disqualify himself or
herself from acting or participating in the matter.

b. Engage or have engaged in any transaction or activity which would
to a reasonable person appear to be in conflict with or incompatible with the proper discharge of
official duties, or which would to a reasonable person appear to impair the member's
independence of judgment or action in the performance of official duties, without fully
disclosing on the public record of the advisory committee the circumstances of the transaction or
activity giving rise to such an appearance before engaging in the performance of such official
duties. Such a member shall also file with the Commission a full written disclosure of the
circumstances giving rise to such an appearance before engaging in such official duties. If such
prior written filing is impractical, the member shall file such a disclosure as soon as practical.